

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:21-cv-640-FDW-DSC

<b>MARIANO OSPINA BARAYA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>FRANCISCO JAVIER OSPINA BARAYA,</b>	)	<b><u>ORDER</u></b>
<b>et al.,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

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**THIS MATTER** is before the Court *sua sponte*.

The *pro se* Plaintiff filed this action raising claims that several family members deprived him of his rightful inheritance from his biological father. The Amended Complaint passed initial review on claims of fraud and undue influence against one of his brothers, Francisco Javier Ospina Baraya, and his mother, Helena Baraya Ospina. [Docs. 5, 11]. The Plaintiff also named as Defendants: Citibank; Fundacion Zulaibar, a Panamanian corporation that family members allegedly used to hide funds from him; and Rafael Ignacio Ospina Baraya, another one of his brothers, however, the Amended Complaint failed to pass initial review against these Defendants for the reasons set forth in the Court's Order on initial review. [Id.]. The Plaintiff subsequently moved to amend without success. See [Doc. 18, April 22, 2022 text-only Order]. The Plaintiff has also filed separate civil actions addressing this dispute, which were dismissed as duplicative of the instant case. See Case Nos. 3:22-cv-309-MOC-DCK,<sup>1</sup> 3:22-cv-376-RJC-DSC.<sup>2</sup>

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<sup>1</sup> The Plaintiff named as Defendants: Francisco, Rafael, Fundacion Zulaibar, Citibank, as well as the estate ("Sucesion Mariano Ospina Hernandez"), and his sisters Angela Mercedes Ospina Baraya and Patricia Helena Ospina Baraya.

<sup>2</sup> The Plaintiff named as Defendants: Rafael, Angela, and Patricia.

In light of the Plaintiff's various efforts to amend, and to file new lawsuits that address the same dispute as the instant case, the Court will grant the Plaintiff one final opportunity to amend in the instant case.

Accordingly, the Court will grant the Plaintiff 21 days within which to file a superseding Second Amended Complaint in the instant case, subject to all timeliness and procedural requirements. Piecemeal amendment will not be permitted. Should the Plaintiff fail to timely comply with this Order, the Court will proceed on the Amended Complaint in accordance with the Order on initial review. [Docs. 5, 11].

**ORDER**

**IT IS, THEREFORE, ORDERED** that the Plaintiff shall have twenty-one (21) days in which to file a Second Amended Complaint in accordance with the terms of this Order. If the Plaintiff fails to comply, the matter will proceed on the Amended Complaint.

**IT IS SO ORDERED.**

Signed: August 19, 2022



Frank D. Whitney  
United States District Judge

